

**DEPARTMENT OF STATE REVENUE
SUPPLEMENTAL LETTER OF FINDINGS NUMBER: 97-0164
Sales and Use Tax
For The Years: 1992, 1993, 1994, 1995**

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ISSUES

I. Sales/Use Tax – Market Surveys and Reports

Authority: 45 IAC 2.2-4-2.

The Taxpayer protests the Department's assessment of sales/use tax on market surveys and reports.

II. Sales/Use Tax – License and Service Agreements

Authority: IC 6-2.5-4-6, IC 6-2.5-4-11.

The Taxpayer protests the Department's assessment of sales/use tax on fees paid to receive radio and television feeds.

STATEMENT OF FACTS

The Taxpayer is an Indiana corporation consisting of divisions which primarily own and operate television and radio stations or which produce radio or television broadcasts. An audit was conducted for sales/use tax for the periods of 1992, 1993, 1994 and 1995. During the audit, the Taxpayer was assessed sales/use tax on market surveys and reports it uses to determine viewer

ratings. Taxpayer contends sales/use tax assessments were also proposed on its purchase of licensing agreements for programming feeds (broadcast transmission via satellite). More facts will be provided as necessary.

I. **Sales/Use Tax: Market Surveys and Reports**

DISCUSSION

The Taxpayer was assessed sales/use tax on its market surveys and reports. It relies on a Revenue Ruling, requested by a representative of the Taxpayer, which states that market surveys are exempt from sales tax if the surveys fall within 45 IAC 2.2-4-2. Upon further review by the Department, the Taxpayer has demonstrated their compliance with this Ruling. Therefore, their protest is sustained.

FINDING

The Taxpayer's protest is sustained.

II. **Sales/Use Tax: License and Service Agreements**

DISCUSSION

The Taxpayer asserts that it was assessed sales/use tax for receiving television and radio programming feeds for broadcast purposes. The Department agrees that the programming feeds are not analogous to the reception of cable television or telecommunications service because the charge represents a license fee to re-broadcast a transmission. Consequently, the feeds are not taxable under IC 6-2.5-4-6 or IC 6-2.5-4-11.

The auditor asserts that no tax was assessed on programming feeds. Taxpayer asserts that one invoice subjected to tax was for programming feeds. However, Taxpayer has not provided a copy of the invoice.

FINDING

The Taxpayer's protest is denied. The Department agrees that programming feeds are not taxable. However, the Taxpayer has been unable to document that tax was assessed on any such items.